THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.12390 OF 2007

DATED: 22-06-2007

BETWEEN

M/s. Sri Rajarajeswari Filling Station,
I.B.P. Dealers, Bantumilli Village and
Mandal, Krishna District, Rep. by its
Proprietor, Sri K. C. Srinivasa Gupta.

...PETITIONER

AND

M/s. Indian Oil Corporation Limited,
IBP Division, Southern Region, 10,
Mayor V. R. Ramanathan Road,
Chetput, Chennai, Tamil Nadu,
Rep. by its General Manager and
two others.

...RESPONDENTS

ORDER:

Learned counsel for the petitioner submits that pursuant to the inspection conducted by the Special Anti-Adulteration Team on 18.08.2006 in respect of the petitioner – retail outlet three samples have been drawn, out of which, one was kept at Divisional Office, one with the petitioner outlet and the third one with the transporters truck. He further submits that all the three samples have to be sent for testing but only two samples have been sent i.e. the sample retained with the petitioner and the sample retained with the Divisional Office, but the transporters sample kept with the transporting tanker truck has not been sent.

2. However, no material has been placed before this Court as to whether

any sample has been kept with the transporting truck.

3. Learned counsel for the petitioner further submits that the respondents issued a show cause notice dated 27.10.2006 and the petitioner submitted his explanation on 03.11.2006 requesting the authorities to test the underground samples. Thereafter, the second respondent informed the petitioner that the sample of the dealer was found leaking and therefore, it cannot be tested. Insofar as the sample kept with the Division Officer is concerned, the same has been sent for testing and it failed the RON Test. Thereafter, the second respondent issued a show cause notice dated 02.03.2007 and the petitioner submitted his explanation on 07.03.2007 requesting the authorities to test the samples collected from transporting tanker truck and arrive at a conclusion.

4. Even before any final orders have been passed and the said explanation is considered and disposed, the petitioner in haste filed this writ petition. I am of the opinion that as the enquiry proceedings are pending and as no final orders have been passed, it cannot be assumed and presumed that the respondents are not going to consider and dispose the explanation of the petitioner. Therefore, I am not inclined to entertain the writ petition at the level of show cause notice.

The writ petition is accordingly dismissed. However, it is needless to mention that uninfluenced by any of the observations made by this Court, it is for the concerned authorities to consider and dispose the explanation/representation submitted by the petitioner in accordance with law and pass appropriate final orders. There shall be no order as to costs.

_____

V. ESWARAIAH, J

June 22, 2007
DSK